

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

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|---|---|--------------------|
| Albert Leroy Green, # 279345, |) | C.A. No. 0:04-1224 |
| |) | |
| Plaintiff, |) | |
| |) | |
| -versus- |) | ORDER |
| |) | |
| Allen Collins, Parole Office Supervisor; |) | |
| Hayward Hinton, Chief Hearing Officer; |) | |
| Jerry Rivers, Parole Preliminary Hearing Officer; |) | |
| Jerry T. Hamberis, Parole Officer, each in their |) | |
| individual capacity and in their official capacity, |) | |
| acting under color of state; and |) | |
| South Carolina Dept. Probation, Parole and |) | |
| Pardons Services, |) | |
| |) | |
| Defendants. |) | |
| |) | |

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Bristow Marchant, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Marchant recommends that the Plaintiff’s complaint be dismissed without prejudice and without issuance and service of process. The Report likewise recommends that the above-captioned case be deemed a strike for purposes of the “three strikes” rule of 28 U.S.C. § 1915(g). The plaintiff has filed objections to the Report.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or

specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 6); plaintiff's objections are **OVERRULED** (Doc. # 7); and Plaintiff's complaint is dismissed without prejudice and without issuance and service of process. Additionally, as recommended in the Report and Recommendation of the Magistrate Judge, the plaintiff shall receive a "strike" with this dismissal under 28 U.S.C. Section 1915(g).

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

April 27, 2006
Florence, South Carolina